

## SENATE BILL NO. 300

INTRODUCED BY GRIMES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE ASSESSMENT OF ADDITIONAL PERMITTING  
5 FEES FOR AN APPLICATION AND ENVIRONMENTAL REVIEW FOR CERTAIN SMALL METAL MINE  
6 OPERATIONS; AMENDING SECTION 82-4-335, MCA; AND PROVIDING AN EFFECTIVE DATE."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 82-4-335, MCA, is amended to read:

11 **"82-4-335. Operating permit -- limitation -- fees.** (1) A person may not engage in mining, ore  
12 processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide  
13 ore-processing reagents or other metal leaching solvents or reagents, or disturb land in anticipation of those  
14 activities in the state without first obtaining an operating permit from the department. A separate operating permit  
15 is required for each complex.

16 (2) A small miner who intends to use a cyanide ore-processing reagent or other metal leaching solvents  
17 or reagents shall obtain an operating permit for that part of the small miner's operation where the cyanide  
18 ore-processing reagent or other metal leaching solvents or reagents will be used or disposed of.

19 (3) (A) Prior to receiving an operating permit from the department, a person shall pay the basic permit  
20 fee of \$500. ~~The~~

21 (B) SUBJECT TO SUBSECTION (3)(C), THE department may require a person who is applying for a permit  
22 pursuant to subsection (1) and whose total disturbance area exceeds 100 20 acres to pay an additional fee not  
23 to exceed the actual amount of contractor and employee expenses beyond the normal operating expenses of  
24 the department whenever those expenses are reasonably necessary to provide for timely and adequate review  
25 of the application, including any environmental review conducted under Title 75, chapter 1, parts 1 and 2. The  
26 board may further define these expenses by rule. Whenever the department determines that an additional fee  
27 is necessary and the additional fee will exceed \$5,000, the department shall notify the applicant that a fee must  
28 be paid and submit to the applicant an itemized estimate of the proposed expenses. The department shall  
29 provide the applicant an opportunity to review the department's estimated expenses. The applicant may indicate  
30 which proposed expenses the applicant considers duplicative or excessive, if any. An applicant that proposes

1 ~~to disturb an area less than 100 20 acres in size is exempt from these additional fees:~~

2 (C) A PERSON WHO IS APPLYING FOR A PERMIT PURSUANT TO SUBSECTION (1) IS EXEMPT FROM ANY FEES  
3 BEYOND THE BASIC PERMIT FEE IF:

4 (I) THE TOTAL DISTURBANCE AREA IS 20 ACRES OR LESS; AND

5 (II) THE DISTURBANCE IS UNLIKELY TO RESULT IN SIGNIFICANT ENVIRONMENTAL IMPACTS.

6 (4) The person shall submit an application on a form provided by the department, which must contain  
7 the following information and any other pertinent data required by rule:

8 (a) the name and address of the operator and, if a corporation or other business entity, the name and  
9 address of its officers, directors, owners of 10% or more of any class of voting stock, partners, and the like and  
10 its resident agent for service of process, if required by law;

11 (b) the minerals expected to be mined;

12 (c) a proposed reclamation plan;

13 (d) the expected starting date of operations;

14 (e) a map showing the specific area to be mined and the boundaries of the land that will be disturbed,  
15 the topographic detail, the location and names of all streams, roads, railroads, and utility lines on or immediately  
16 adjacent to the area, and the location of proposed access roads to be built;

17 (f) the names and addresses of the owners of record and any purchasers under contracts for deed of  
18 the surface of the land within the permit area and the owners of record and any purchasers under contracts for  
19 deed of all surface area within one-half mile of any part of the permit area, provided that the department is not  
20 required to verify this information;

21 (g) the names and addresses of the present owners of record and any purchasers under contracts for  
22 deed of all minerals in the land within the permit area, provided that the department is not required to verify this  
23 information;

24 (h) the source of the applicant's legal right to mine the mineral on the land affected by the permit,  
25 provided that the department is not required to verify this information;

26 (i) the types of access roads to be built and manner of reclamation of road sites on abandonment;

27 (j) a plan that will provide, within limits of normal operating procedures of the industry, for completion  
28 of the operation;

29 (k) ground water and surface water hydrologic data gathered from a sufficient number of sources and  
30 length of time to characterize the hydrologic regime;

1 (l) a plan detailing the design, operation, and monitoring of impounding structures, including but not  
2 limited to tailings impoundments and water reservoirs, sufficient to ensure that the structures are safe and stable;

3 (m) a plan identifying methods to be used to monitor for the accidental discharge of objectionable  
4 materials and remedial action plans to be used to control and mitigate discharges to surface or ground water;  
5 and

6 (n) an evaluation of the expected life of any tailings impoundment or waste area and the potential for  
7 expansion of the tailings impoundment or waste site.

8 (5) Except as provided in subsection (7), the permit provided for in subsection (1) for a large-scale  
9 mineral development as defined in 90-6-302 must be conditioned to provide that activities under the permit may  
10 not commence until the impact plan is approved under 90-6-307 and until the permittee has provided a written  
11 guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule  
12 with the commitment made in the approved impact plan, as provided in 90-6-307. If the permittee does not  
13 comply with that commitment within the time scheduled, the department, upon receipt of written notice from the  
14 hard-rock mining impact board, shall suspend the permit until it receives written notice from the hard-rock mining  
15 impact board that the permittee is in compliance.

16 (6) When the department determines that a permittee has become or will become a large-scale mineral  
17 developer pursuant to 82-4-339 and 90-6-302 and provides notice as required under 82-4-339, within 6 months  
18 of receiving the notice, the permittee shall provide the department with proof that the permittee has obtained a  
19 waiver of the impact plan requirement from the hard-rock mining impact board or that the permittee has filed an  
20 impact plan with the hard-rock mining impact board and the appropriate county or counties. If the permittee does  
21 not file the required proof or if the hard-rock mining impact board certifies to the department that the permittee  
22 has failed to comply with the hard-rock mining impact review and implementation requirements in Title 90,  
23 chapter 6, parts 3 and 4, the department shall suspend the permit until the permittee files the required proof or  
24 until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining  
25 impact review and implementation requirements.

26 (7) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing  
27 when the aggregate samples are less than 10,000 tons.

28 (8) A person may not be issued an operating permit if:

29 (a) that person's failure, or the failure of any firm or business association of which that person was a  
30 principal or controlling member, to comply with the provisions of this part, the rules adopted under this part, or

1 a permit or license issued under this part has resulted in either the receipt of bond proceeds by the department  
2 or the completion of reclamation by the person's surety or by the department, unless that person meets the  
3 conditions described in 82-4-360;

4 (b) that person has not paid a penalty for which the department has obtained a judgment pursuant to  
5 82-4-361;

6 (c) that person has failed to post a reclamation bond required by 82-4-305; or

7 (d) that person has failed to comply with an abatement order issued pursuant to 82-4-362, unless the  
8 department has completed the abatement and the person has reimbursed the department for the cost of  
9 abatement.

10 (9) A person may not be issued a permit under this part unless, at the time of submission of a bond, the  
11 person provides the current information required in subsection (4)(a) and:

12 (a) (i) certifies that the person is not currently in violation in this state of any law, rule, or regulation of  
13 this state or of the United States pertaining to air quality, water quality, or mined land reclamation; or

14 (ii) presents a certification by the administering agency that the violation is in the process of being  
15 corrected to the agency's satisfaction or is the subject of a bona fide administrative or judicial appeal; and

16 (b) if the person is a partnership, corporation, or other business association, provides the certification  
17 required by subsection (9)(a)(i) or (9)(a)(ii), as applicable, for any partners, officers, directors, owners of 10%  
18 or more of any class of voting stock, and business association members."

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20 **NEW SECTION. Section 2. Effective date.** [This act] is effective July 1, 2003.

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